

# THE BIHAR LEGISLATIVE ASSEMBLY DEBATES.

*Tuesday, the 7th October, 1947.*

**Proceedings of the Bihar Legislative Assembly assembled under the provisions of the Government of India Act, 1935.**

The Assembly met in the Assembly Chamber at Ranchi on Tuesday, the 7th October, 1947, at 2 p. m., the Hon'ble the Speaker, Mr. Vindeshwari Prasada Varma, in the Chair.

## SHORT NOTICE QUESTIONS AND ANSWERS.

**Mr. TAJAMUL HUSAIN :** What about question no. 25 that was not answered yesterday ?

**The Hon'ble the SPEAKER :** When short notice questions are admitted with the consent of the Hon'ble Ministers in charge, they should ordinarily be answered in time i.e., on the dates on which the answers are stipulated to be given.

**The Hon'ble Mr. BADRINATH VARMA :** Sir, copy was made available to me only this morning.

**Mr. TAJAMUL HUSAIN :** What about the answers to question nos. 15—24 ?

**The Hon'ble the SPEAKER :** Yesterday they could not be answered because Government were not prepared to answer them. Answer to question nos. 25—27 are not ready today.

**APPOINTMENT OF MR. H. R. DAUDI AS THE ASSISTANT PROVINCIAL MOTOR TRANSPORT CONTROLLER FOR BIHAR AND DISSATISFACTION CAUSED TO TRANSPORT OWNERS IN THE PROVINCE DUE TO THIS.**

**28. Mr RAM BINOD SINHA :** Will the Hon'ble Minister in charge of Transport be pleased to state—

(a) what are the qualifications of Mr. H. R. Daudi who has been appointed Assistant Provincial Motor Transport Controller for Bihar ;

(b) what are—(i) monthly salary and (ii) allowances of the said Mr. Daudi ;

(c) whether the post of Assistant Provincial Motor Transport Controller, to which Mr. H. R. Daudi has been appointed, was advertised and if not, why ;

"and the public in general" be added after the words "volunteers".

The Hon'ble Mr. SRI KRISHNA SINHA: Sir, I accept the amendment.

The Hon'ble the SPEAKER: The question is:

That after the word "volunteers" in the Preamble the words "and the public in general" be inserted,

The motion was adopted.

The Hon'ble the SPEAKER: The question is:

That the Preamble as settled in the Assembly do stand part of the Bill.

The motion was adopted.

The Preamble was added to the Bill.

The Hon'ble the SPEAKER: The question is:

That the short title be added to the Bill.

The motion was adopted.

The short Title was added to the Bill.

The Hon'ble Mr. SRI KRISHNA SINHA : Sir, I beg to move:

That the Bihar Home Guards Bill, 1947, as settled in the Assembly be passed.

The Hon'ble the SPEAKER: The question is:

That the Bihar Home Guards Bill, 1947, as settled in the Assembly be passed.

The Motion was adopted.

THE BIHAR TENANCY (AMENDMENT) BILL 1947  
(BILL NO 20 OF 1947).

The Hon'ble Mr. KRISHNA BALLABH SAHAY: Sir, I beg to present the report of the Select Committee on the Bihar Tenancy (Amendment) Bill, 1947.

*(The report was presented.)*

The Hon'ble Mr. KRISHNA BALLABH SAHAY: Sri, I beg to move:

That the Bihar Tenancy (Amendment) Bill 1947, as reported by the Select Committee, be taken into consideration.

The Hon'ble the SPEAKER: The question is:

That the Bihar Tenancy (Amendment) Bill, 1947, as reported by the Select Committee, be taken into consideration.

The motion was adopted.

The Hon'ble the SPEAKER: I now take it up clause. There are no amendments to clause 1.

The Hon'ble the SPEAKER: The question is:

That clauses 2 and 3, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

MR. MUHAMMAD ABDUL GHANI: Sir, the difficulty is that the report has been presented today and we have not got sufficient time.....

The Hon'ble the SPEAKER: It is already in the order of Business.

Mr. MUHAMMAD ABDUL GHANI: It is not particularly mentioned that it will be taken up today.

The Hon'ble the SPEAKER: But the amendments have been filed and the amendments were circulated, I understand, on the 24th September last.

Mr. MUHAMMAD TAHIR: Sir, there is one amendment which has not been included in the printed list. But it has been circulated separately.

The Hon'ble the SPEAKER: It is not in my hand just at the moment.

The Hon'ble MR. KRISHNA BALLABH SAHAY: Nor in my hand, Sir.

Mr. MUHAMMAD TAHIR: But it has been circulated long ago.

The Hon'ble the SPEAKER: All right, I take it.

Mr. MUHAMMAD TAHIR: Sir, I beg to move:

That in clause 4 of the Bill, for sub-section (1) of the proposed section 21 of the Act and the provisos thereto the following be *substituted*, viz.:—

“Every proprietor or tenure holder who is in possession of *bakasht* lands and also has more than 100 acres of private land under his cultivation shall within six months from the date of the commencement of this Act settle his *bakasht* lands, and every proprietor or tenure-holder who has *bakasht* lands in his possession and also has less than 100 acres of private land under his cultivation shall retain not more than 100 acres including his private and *bakasht* land under his cultivation and shall within six months from the commencement of this Act settle his *bakasht* land in excess of this limit,

“Provided further that every proprietor or tenure holder who has more than 100 acres of *bakasht* land only shall not retain more than 100 acres of such and shall within the said period settle the balance of his *bakasht* lands”.

جناب اسپیکر صاحب — یہ ترمیم جو میں نے پیش کی ہے قبل اسکے کہ اسکے متعلق کچھ عرض کروں - میں حضور والا کی توجہ بل میں جو provision ہے اسکی طرف مبذول کرانا چاہتا ہوں - کلازم کے سیکشن ۲۱-اے (21-A) میں settlement of Bakasht land کے متعلق جو provision رکھا گیا ہے اسکو ذرا ملاحظہ فرمائیے -

“21A. (1) Every (raiyat), person, irrespective of whether he is a settled *raiyat* of a village or not, shall have a right of occupancy in all (the *bakasht*) land (settled with him) for the time being held by him as a *raiyat* in that village”

اس پروویژن سے یہ پتہ نہیں چلتا کہ جو رعیت settled نہیں ہے اور اسکے ساتھ بکاشت زمین settle کیجائیے تو اسکو وہ حق حاصل ہوگا یا نہیں - میرے خیال میں یہاں تو creation of right کا سوال ہے - جب کسی آدمی کے ہاتھ آپ زمین بذریعہ کر دیتے ہیں تو اسکو پورا پورا حق حاصل ہو جائیگا اور اسکو occupancy right ہو جائیگا -

The Hon'ble the SPEAKER پہلے آپ اپنے संशोधन Amendment को मुझे समझा दीजिये और जो मौजूदा क़ानून है, उसमें क्या ऐन है, उसे भी बताइये ।

Mr. MUHAMMAD TAHIR :

amendment میرے مطلب یہ ہے کہ جیسا کہ ہملوگوں کا مقصد ہے - اس provisions میں settlement of Bakasht land کے متعلق ہملوگوں کو ایسا قانون بنانا چاہئے اور اس طرح کا provision کرنا چاہئے کہ زمیندار mandatory provision کے ذریعہ اپنی بکاشت زمین کو بندوبست کر دیں - وہ زمیندار جنکے پاس سو ایکڑ زمین ہے یا اس سے زیادہ ہے وہ اپنی بکاشت زمین کسی رعیت کے ساتھ settle کر دیں اور وہ زمیندار جسکے پاس سو ایکڑ زمین ہے یا اس سے کم ہے مگر اسکے علاوہ پڑاؤت زمین بھی اُسکے پاس ہے تو دونوں زمین ملا کر وہ سو ایکڑ اپنے لئے رکھینگے باقی زمین کو بندوبست کر دیں گے -

The Hon'ble the SPEAKER: अगर नहीं settle करे तो क्या होगा ।

Mr. MUHAMMAD TAHIR :

ہم تو یہ چاہتے ہیں کہ اسکو mandatory provision کے ذریعہ طے کر دیں - ہم اس طرح کا provision کریں کہ جن کے پاس کافی زمین ہے وہ اس زمین کو اس رعیت کے ساتھ جس کے پاس زمین نہیں ہو بندوبست کر دیں -

The Hon'ble the SPEAKER: नहीं settle करेगा तो कानून क्या करेगा ? इसलिए इसको offence बना दीजिये के नहीं settle करने से Puhishable with imprisonment होगा ।

Mr. MUHAMMAD TAHIR :

اگر ہمارے ریونیو منسٹر صاحب اسکو تسلیم کریں اور مانلیں تو اس پروویژن میں یہ بھی رکھا جا سکتا ہے -

The Hon'ble the SPEAKER: वे accept करें या नहीं करें, अगर आप Amendment देना चाहे तो हम accept करने के लिए तैयार हैं । Hear, hear

Mr. MUHAMMAD TAHIR :

جب ہم اسکو اس طرح amend کر دیں گے اور ایسا provision بنا دیں گے تو جو زمیندار زمین بندوبست نہیں کرینگے انکی زمین گورنمنٹ کے پاس forfeit ہو جائیگی -

The Hon'ble the SPEAKER : आप अपने Amendment को लिख कर दीजिये नहीं तो मोहसल हो जायगा । अच्छा इस समय बोलिये, बाद में लिख कर दीजियेगा ।

Mr. MUHAMMAD TAHIR :

قیسری بات ہمیں یہ کہنا ہے کہ وہ زمیندار جسکے پاس private land نہیں ہے اور صرف بکاشت زمین ہے اور وہ سو ایکڑ سے زیادہ ہے تو وہ سو ایکڑ اپنے لئے رکھیں اور باقی کو رعیت کے ساتھ settle کر دیں۔ یہی میرا مطلب ہے حضور۔ جیسا کہ ابھی آپ نے فرمایا جو زمیندار اسپر عمل نہ کرے اسکی زمین گورنمنٹ forfeit کر لے۔ اس ترمیم سے میرا مقصد صحت یہ ہے کہ پرائیوٹ زمین کے علاوہ جو بکاشت زمین ہے۔ وہ ضرور کسی رعیت کے ساتھ خاص کر اُس رعیت کے ساتھ جسکے پاس زمین نہیں ہے اور وہ زمین رکھنے کی صلاحیت رکھتا ہے۔ Settle کر دی جائے۔

The Hon'ble the SPEAKER: फिर आप अपने संशोधन (Amendment) को Amend करना चाहते हैं जब तक हम सरकार का जवाब ले लेते हैं। इसी बीच में आप संशोधन करके जो कुछ देना चाहते हैं उसे दे दीजिए। अब सरकार अपना जवाब देगी।

The Hon'ble Mr. KRISHNA BALLABH SAHAY : जनाब सदर, मेरे दोस्त ताहीर साहब ने जो संशोधन (Amendment) पेश किया है उसका मैं विरोध करता हूँ। क्लॉज २१ का जो संशोधन (Amendment) इस बिल में है उसका यह मकशद नहीं है कि किसी लैंडलार्ड्स या जमींदार को मजबूर किया जाय कि वह जमीन को बन्दोबस्त करे। वह जिसके साथ जमीन बन्दोबस्त करता है उसका हक पैदा हो जाता है कि वह उस हक की हिफाजत करे। इस संशोधन (Amendment) का यही मतलब है और हमारे दोस्त चाहते हैं कि जमींदारों को मजबूर किया जाय कि जिस जमींदार के पास सौ एकड़ से ज्यादा जमीन हो वह बन्दोबस्त कर दे। मेरे ख्याल में यह असंगत (irrelevant) है और इसके लिए जगह नहीं है।

The Hon'ble the SPEAKER : मैंने इस पर गौर किया है। यह असंगत (irrelevant) है।

The Hon'ble Mr. KRISHNA BALLABH SAHAY : The object of this amendment is that as soon as the landlord creates the relation with the tenant this must be regulated between him and the tenant. But the hon'ble member says that the landlord must be forced to settle his land with the tenant. Therefore, I say, Sir, that this amendment is not consistent with the object of the Bill and therefore it is appears to be irrelevant.

The Hon'ble the SPEAKER : The hon'ble member wants to say that the settlement of land must be made compulsory with the tenant.

The Hon'ble Mr. KRISHNA BALLABH SAHAY : How can it be ?

The Hon'ble the SPEAKER : Has the Hon'ble Minister raised a point of order ?

The Hon'ble Mr. KRISHNA BALLABH SAHAY : दूसरी बात मैं यह कह रहा था कि यह जो संशोधन (Amendment) मेरे दोस्त ताहीर साहब ने पेश किया है वह असंगत है 'बे मुझे माफ करें मैं उसका विरोध करता हूँ। साथ ही साथ उन्हें यह भी समझ लेना चाहिए कि इस संशोधन के लिए गवर्नर की मंजूरी की जरूरत पड़ेगी।

हमारा अपना खयाल है कि अगर किसी जमींदार के पास सौ एकड़ जमीन है और वह खुद खेती करता है और किसान भी है तो उसको जमीन बन्दोबस्त करने के लिए मजबूर करना यह न्याय नहीं कहा जा सकता है।

गवर्नमेंट की यह पालिसी नहीं है कि किसी रैयत को या किसी जमींदार को मजबूर किया जाय और उससे जमीन छीन ली जाय। न तो हम जमींदार को मजबूर कर सकते हैं और न हम रैयत को मजबूर कर सकते हैं कि वह बन्दोबस्त करदे और ऐसा करना मुनासिब भी नहीं होगा। इसलिए ताहीर साहब का जो संशोधन है वह असंगत है। इसलिए मैं इसका विरोध करता हूँ।

The Hon'ble the SPEAKER : यह अमेन्डमेंट है :—

Provided in case the landlord fails to settle such land, the land shall be forfeited to the Provincial Government.

Instead of substitution the hon'ble member now wants another amendment that clause 21 (a), sub-clause (1) be numbered as 21 (b). This will modify the Bill.

Mr. MUHAMMAD TAHIR :

جناب صدر — کلاز نمبر ۲ جو ہے وہ بکاست زمین کے بندوبست کرنے کے procedure کے متعلق ہے۔ لیکن بکاشت زمین کا بندوبست لینے کا حق صرف اسی رعیت کو دیا جا رہا ہے جو settled raiyat ہو۔

The Hon'ble Mr. K. B. SAHAY : यह चीज Tenancy Act में नहीं है।

Mr. SAIYID MAZHAR IMAM :

جناب صدر — میں اس ترمیم کی مخالفت کرتا ہوں۔ اس کے ساتھ ہی ساتھ میں وزیر اعظم اور ریونیو منسٹر صاحب سے یہ عرض کرونگا کہ اس دفعہ میں دو تین خرابیاں ہیں۔ بکاشت زمین کی بندوبستی کا اختیار اسی گاؤں کے لوگوں کے درمیان جس میں وہ زمین ہے۔ یا پھر قریب کی بستی کے لوگوں کے درمیان دیا گیا ہے۔

The Hon'ble the SPEAKER अमेन्डमेन्ट में settlement की बात आगई है।

Mr. MUHAMMAD TAHIR :

میری ترمیم پورے amendment پر proviso کے ساتھ ساتھ ہے۔ ترمیم کے بارے میں یہ عرض کرونگا کہ میرا مقصد یہ ہے کہ بل میں جو provision ہے اس سے غلط فہمی یا دھوکہ ہو سکتا ہے۔ اس دفعہ میں Settlement of Bakasht land کا تذکرہ ہے لیکن حالت یہ ہے کہ دراصل اسکے اندر کوئی ایسی بات نہیں ہے جسکے ذریعہ بکاشت زمین جائز طور سے بندوبست کی جاسکے۔ میری ترمیم یہ ہے کہ واقع بکاشت زمین کا settlement ہو۔ زیادہ تر بکاشت زمین زمینداروں کے پاس ہیں۔ انکو رعیت کے ہاتھ بندوبست ہو جانا چاہئے۔ جنکے پاس زمین نہیں ہیں۔ اس وجہ سے میرا خیال ہے کہ اس موجودہ Settlement of Bakash provision کا کوئی مطالبہ ہی نہیں ہے جبکہ land کے چھاء کا صحیح مطالبہ ہی ادا نہیں ہوتا۔ اس لئے اس چیز کو دوسری جگہ place کیا جائے اور میں نے جو ترمیم پیش کی ہے اسکو منظور کیا جائے۔

The question is....

The Hon'ble Mr. KRISHNA BALLABH SAHAY : Have you held that amendment is in order, Sir?

The Hon'ble the SPEAKER : The amendment moved is :

That after 21A in clause 4 of the Bill the following be added as sub-clause (1) :—

“Every proprietor or tenure-holder who is in possession of *bakasht* lands and also has more



than 100 acres of private land under his cultivation shall within six months from the date of the commencement of this Act settle his *bakasht* lands, and every proprietor or tenure-holder who has *bakasht* lands in his possession and also has less than 100 acres of private land under his cultivation shall retain not more than 100 acres including his private and *bakasht* land under his cultivation and shall within six months from the commencement of this Act settle his *bakasht* land in excess of this limit;

Provided that every proprietor or tenure-holder who has more than 100 acres of *bakasht* land only shall not retain more than 100 acres of such land and shall within the said period settle the balance of his *bakasht* land ;

Provided further that in case the landlord fails to settle the *bakasht* land the said land shall be forfeited to the Province Government."

That sub-clause (1) of 21A be numbered as sub-clause (2).

Order, Order. I have given anxious consideration to the point of order raised on this amendment. Two points have been urged. The first is that it is beyond the scope of the present Bill. It is said that whereas the Tenancy Act regulates the relations between landlords and tenants, this amendment wants that certain lands 'should be compulsorily settled. My first decision is that the amendment is beyond the scope of the present Bill. The second point urged is that the amendment comes within the mischief of section 299 of the Government of India Act, for when this section lays down that no Bill or amendment making provision for the transference of public ownership of any land or for the extinguishment or modification of rights therein shall be introduced or moved in either Chamber without the previous sanction the Governor General in his

discretion or in a Chamber of the Provincial Legislature without the previous sanction of the Governor in his discretion, such sanction should have been obtained for the moving of the amendment. I, therefore, hold that this amendment comes within the mischief of sub-section (2) of section 299 of the Government of India Act and it cannot be moved.

Mr. MUHAMMAD TAHIR : Sir, I beg to move :

That in the first proviso to sub-section (1) of the proposed section 21A of the Act, after the words "Provided that" the words "notwithstanding anything contrary contained in this Act or any other Act having the force of law" be added.

میرا مطلب یہ ہے کہ یہ حق اُن زمینداروں کے خلاف ہے - جنکے پاس چالیس ایکڑ سے زیادہ زمین نہیں ہے - اگر کوئی شخص ایسے زمیندار کے خلاف زمین کو داخل کرے تو اسکو [occupancy right] ہوگا لیکن اگر settled raiyat ہے تو اسکو right نہیں ہوگا - میری توہمیں اس کو صاف کرتی ہے - اسکے ساتھ میری تیسری توہمیں بھی ملانی ہوگی -

The Hon'ble the SPEAKER - گورنمنٹ کو اسکو مان لینے میں کیا उभ्र है। यह बात गवर्नमेंट को कहना चाहिये।

The Hon'ble Mr. KRISHNA BALLABH SAHAY  
समापति जी अगर हमलोग यह मान ले कि settled raiyat को occupancy right नहीं होगा तब तो यह संशोधन (amendment) order में होगा। मगर यह बात नहीं है। इसलिये मैं इसका विरोध करता हूँ।

The Hon'ble the SPEAKER: मैं समझता हूँ कि यह संशोधन (amendment) जो आप कहते हैं उसके खिलाफ नहीं जाता है बल्कि कानून का safeguard है। आप जो चाहते उसी को मजबूत बनाने के लिए है।

Mr. MUHAMMAD TAHIR :

اصل یہ ہے کہ

Provided that notwithstanding any thing contrary contained in this Act or any other Act having force of the law.

اسکا مطلب یہ ہے کہ

The Hon'ble Mr. KRISHNA BALLABH SAHAY : My contention is that as the proviso stands the occupancy

right will not accrue to any person other than the person.

The Hon'ble the SPEAKER : That position is not affected by this amendment. It is a mere technical amendment. At any rate, it is open to the Hon'ble Minister to oppose it.

Mr. MUHAMMAD TAHIR :

میرا مطلب یہ ہے کہ جب آپ ایسے لوگوں کے خلاف جو چالمیس ایکڑ سے کم زمین رکھتے ہیں - right - دیرھے ہیں تو وہ (right) حق settled raiyat کے لئے بھی ہونا چاہئے - جب تک میرا پہلا amendment نہیں take up کیا جائے گا - میرا دوسرا amendment نہیں آسکتا ہے -

The Hon'ble the SPEAKER : Settled raiyat کو right ہوگا ن ؟ آپ کی तरمیم کا کیا मतलब है ?

Mr. MUHAMMAD TAHIR :

..... میری ترسیم کا مطلب یہ ہے کہ وہ زمیندار

The Hon'ble the SPEAKER : जो settled raiyat है उसके साथ अगर ४० एकड़ से कम वाला बन्दोस्वस्त कर दे तो उसका हक ज्यों का त्यों रहेगा ?

Mr. MUHAMMAD TAHIR :

اس میں یہ ہے کہ :

"No person who is not a settled raiyat of a village shall have any such right of occupancy."

ہم یہ چاہتے ہیں کہ جب petty landlords کو آپ نے right دیا ہے کہ کسی آدمی کے خلاف میں occupancy right نہیں ہوگا یعنی .....

The Hon'ble the SPEAKER: वह तो दूसरी तरमिम (amendment)

है । उससे क्या मतलब ?

Mr. MUHAMMAD TAHIR :

ان دونوں ترسیموں کو ملا دینا ہوگا -

The Hon'ble the SPEAKER . जो कानून है उस को मजबूत करने के लिए अगर तरमिम रखना चाहते हैं तो शायद उसमें किसी को उज्र न होगा लेकिन इसके अन्दर आपका मतलब दूसरा हो तब तो विरोध (opposition) हो सकता है ।

Mr. MUHAMMAD TAHIR :

ہاں میرا مطلب دوسرا ہے ۔ میرا مطلب صرف یہ ہے کہ آپ اس provision سے ایک (right) حق create کرتے ہیں ۔ ان زمینداروں کے لئے .....

in favour of those landlords, "the provisions of this section shall have no effect until after the expiration of six months from the date of the commencement of the Bihar Tenancy (Amendment) Act, 1947".

جب آپ انہی سپربانڈی انکے ساتھ کرتے ہیں تو .....

The Hon'ble the SPEAKER: तो इसका मतलब यह है कि आप settled raiyat का हक छीन रहे हैं ।

Mr. MUHAMMAD TAHIR :

دونو ترمیموں کو ساتھ ساتھ لیا جائے ۔ اس لئے کہ میری دوسری ترمیم کا مطلب پورا نہیں ہوتا ہے جب تک اسکو ساتھ نہیں لیا جائے ۔

The Hon'ble the SPEAKER . तो आपने दोनों त्रमामों का एक साथ क्यों नहीं दिया ?

Mr. MUHAMMAD TAHIR :

ہم نے تو دیدیا تھا حضور ۔ معلوم نہیں کیوں numbering میں ایسا ہوا ۔

The Hon'ble the SPEAKER: The question is:

That in the first proviso to sub-section (1) of the proposed section 21A of the Act, *after* the words "Provided that" the words "notwithstanding anything contrary contained in this Act or any other Act having the force of law" be *added*.

The motion was negatived.

Mr. MUHAMMAD TAHIR: Sir, I beg to move :

That in clause (a) of sub-section (2) of the proposed section 21A of the Act, *after* the word "settlement", the words "to a person who has land in such village but resides in any other village and where no such person be forthcoming to take settlement" be *inserted*.

Mr. MUHAMMAD TAHIR :

یہ بہت چھوٹی سی بات ہے ۔ Provision میں settlement کا procedure دیا ہے کہ :

"In settling his *bakasht* land, the proprietor or tenure holder, as the case may be,—

(a) shall be bound to give preference to a person resident in the village in which such land is situated—"

اسمیں میں نے قریب پیش کی ہے کہ اُس آدمی کو ترجیح دی جائے - جسکی زمین اس موضع میں ہو لیکن مکان اس موضع میں نہ ہو -

The Hon'ble the SPEAKER : आप के कहने का मतलब यह है कि पहले जो उस गाँव में रहता है उसको preference दिया जाय; बाद में जो उस गाँव में नहीं रहता है लेकिन उसकी जमीन उस गाँव में है उसको preference दिया जाय ?

Mr. MUHAMMAD TAHIR :

میں سمجھتا ہوں کہ یہ بہت معمولی چیز ہے - اسپر ہمارے ریونیو منسٹر صاحب کو کوئی عزر نہیں ہوگا -

The Hon'ble Mr. KRISHNA BALLABH SAHAY :

सभापतिजी जो, अमेन्डमेन्ट ताहिर साहब ने पेश किया है उसका मैं विरोध करता हूँ। इस संशोधन Amendment का यह मकसद है कि उस आदमी के साथ भी जमीन बन्दोवस्त की जाय जो उस बस्ती का रहने वाला नहीं हो लेकिन उसकी जमीन उस बस्ती में हो।

The Hon'ble the SPEAKER: उनका कहना है कि पड़ोस बगल वाले बस्ती को देकर तब दूसरे आदमी को दिया जाय।

The Hon'ble Mr. KRISHNA BALLABH SAHAY :

उनका कहना है कि जो उस गाँव का बासिन्दा नहीं है बल्कि आस-पास का रहनेवाला हो तो उसको भी जमीन दी जाय।

The Hon'ble the SPEAKER:

Persons of the Village वहाँ के बासिन्दा नहीं हो सकते हैं। बासिन्दा का माने In the eye of the law क्या हो सकता है। One who has land in the village but resides in any other village, वह तो उस गाँव का बासिन्दा नहीं हो सकता है।

The Hon'ble Mr. KRISHNA BALLABH SAHAY:

Any other village का या Adjacent village या तीन चार थाने दूर पर का आदमी किसी गाँव से जमीन नीलाम ले या खरीदे तो वह उस बस्ती का बासिन्दा नहीं हो सकता है। जमीन उस गाँव के आदमी या उसके adjacent गाँव के आदमी के साथ

~~Settle~~ *Settle* ~~की~~ *की* ~~जाय~~ *जाय* ~~क्योंकि~~ *क्योंकि* ~~उस~~ *उस* ~~गांव~~ *गांव* ~~में~~ *में* ~~उसका~~ *उसका* ~~कुछ~~ *कुछ* ~~जमीन~~ *जमीन* ~~है,~~ *है,* ~~यह~~ *यह* ~~ठीक~~ *ठीक* ~~नहीं~~ *नहीं* ~~मालूम~~ *मालूम* ~~होता~~ *होता* ~~है,~~ *है,* ~~इस~~ *इस* ~~लिए~~ *लिए* ~~मैं~~ *मैं* ~~इस~~ *इस* ~~संशोधन~~ *संशोधन* ~~Amendment~~ *Amendment* ~~का~~ *का* ~~विरोध~~ *विरोध* ~~करता~~ *करता* ~~हूँ।~~ *हूँ।*

Mr. MUHAMMAD TAHIR :

میری سمجھ میں نہیں آتا کہ اتنی معمولی سی قریم پر آپ یوں فرما رہے ہیں - یہ تو قاعدہ اور انصاف کی بات ہے کہ جب زمین بندوبست ہوتی ہے تو پہلے گاؤں کے جو رہنے والے ہوتے ہیں انکو دیجاتی ہے - اور اُس شخص کو زیادہ interest ہوتا ہے - لیکن یہ بھی انصاف کا تقاضا نہیں ہے کہ اُس آدمی کے ساتھ بھی جسکی زمین وہاں ہو مگر بدقسمتی سے وہاں کا باشندہ نہ ہو بلکہ دو چار کوس پر رہتا ہو - زمین بندوبست ہونی چاہئے - اسکے بعد اُس آدمی کو زمین ملانی چاہئے جو adjacent village کا رہنے والا ہو - میرا خیال ہے کہ یہ کوئی مشکل چیز نہیں ہے اسلئے بہتر ہے کہ حکومت اسکو منظور کر لے -

The Hon'ble the SPEAKER: अभी जो चीज़ है उससे पहले गांव में रहनेवालों को जमीन मिलेगी, उसके बाद Adjacent village में रहनेवाले को मिलेगी। दूरके आदमी का जिक्र नहीं है।

Mr. MUHAMMAD TAHIR :

اسکے معنی یہ ہو گئے کہ ایک شخص ہے جسکی زمین اُس گاؤں میں adjacent ہے لیکن وہ وہاں کا باشندہ نہیں ہے اور دوسرا شخص ہے جو adjacent village کا رہنے والا ہے مگر اُسکی زمین وہاں نہیں ہے تو adjacent village والے کو زمین مل جائیگی اور اُس آدمی کو نہیں ملے گی -

The Hon'ble the SPEAKER : The question is : That in clause (a) of sub-section (2) of the proposed section 21A of the Act, after the word "settlement", the words "the person who has land in such village but resides in any other village and where no such person be forthcoming to take settlement" be inserted. The motion was negatived.

Mr. MUHAMMAD TAHIR : Sir, I beg to move : That for clause (b) of sub-section (2) of the proposed section 21A of the Act, the following clause be substituted, namely :—

“(b) shall not be entitled to charge rent at a rate more than what is recorded in the record-of-rights or more than what was stipulated in the previous registered *kabuliat*, if any, in respect of such land.”

Mr. MUHAMMAD TAHIR :

یہ کلاز بی (clause B) میں ہے کہ rent کے ساتھ چارج کریں گے۔

اس میں ہے :

“Shall not be entitled to charge rent at a rate exceeding the rate of rent payable for lands of similar description and with similar advantages in the same village or in the neighbouring villages by more than *ten per centum*—.”

ایک تو یہ ہے کہ rent جو چارج کریں گے وہ adjacent village

کے اسی قسم کی زمین کی مالگاری کے مطابق چارج کریں گے۔

The Hon'ble the SPEAKER : यह कोई definite चीज है क्या ?

Mr. MUHAMMAD TAHIR :

جی نہیں۔ definite نہیں ہے۔ مگر موقع تو دیا جاتا ہے۔

The Hon'ble the SPEAKER : कैसे ?

Mr. MUHAMMAD TAHIR :

جو settlement لینے کو تیار ہوگا وہ پہلے کاغذات دیکھے گا تب

rent مقرر کیا جائیگا۔

The Hon'ble the SPEAKER : Land of similar description की मालगुजारी कैसे मालूम होगी।

Mr. MUHAMMAD TAHIR :

Settlement के وقت जتنे काग़ज़ात होंगे वह landlord खुद ही

पیش کریگا۔

The Hon'ble the SPEAKER : सब landlords के पास तो कागज़ रहता नहीं है। एक Landlord का एक आना हिस्सा किसी गांव में रहे और दूसरे का १५ आना हिस्सा रहे तो जिसका १५ आना हिस्सा है उसी के पास कागज़ रहता है। ऐसी हालत में पहला Landlord कैसे कागज़ पेश करेगा ?

Mr. MUHAMMAD TAHIR :

असके पास नहीं तो दूसरे landlords के पास काग़ज़ात होंगे

वह उन को दیکھے گا۔

The Hon'ble the SPEAKER : वह कागज कहाँ कहाँ खोजता फरेगा ?  
अच्छा आगे बढ़िये ।

Mr. MUHAMMAD TAHIR :

فرض کیجئے کہ بندوبستی ہو رہی ہے - دو روپیہ بگہہ - ہم  
بندوبست لے رہے ہیں ہم کہتے ہیں دو روپیہ بگہہ مگر landlord  
کہتا ہے بازار روپیہ بگہہ اور جو adjacent village کئی زمین ہے وہ  
دس روپیہ بگہہ ہے - تو اس کے ثبوت میں وہ کغز پیش کریگا اور ہم  
مجبور ہو جائیں گے اور اتنا روپیہ پر دینا ہوگا -

The Hon'ble the SPEAKER : तब तो यह चीज Indefinite मालूम  
होती है ।

Mr. MUHAMMAD TAHIR :

جی ہاں indefinite تو ہے -

The Hon'ble the SPEAKER : It is stated in sub-  
clause 2(b). "Shall not be entitled to charge rent at a rate  
exceeding the rate of rent payable for lands of similar  
description and with similar advantages in the same village  
or in the neighbouring villages by more than ten per  
centum."

यह बिल्कुल Indefinite है ।

Mr. MUHAMMAD TAHIR :

بالکل indefinite ہے اور دس فیصدی کا اضافہ بھی ہے - حضور :-

The Hon'ble Mr. KRISHNA BALLABH SAHAY :

सभापति जी, मुझे बड़ा दुःख है कि इस अमेन्डमेंट का भी मुझे विरोध करना पड़ता है ।  
इस कर्ज में जो A. B. C. सब क्लाज है वे एक वस्तु पर रखे गये हैं ।

The Hon'ble the SPEAKER : इसमें Indefiniteness का Charge  
है ।

The Hon'ble Mr. KRISHNA BALLABH SAHAY :  
इसमें Indefiniteness का चार्ज नहीं हो सकता है । बिहार टिनेन्सी ऐक्ट के ३१ A  
में जो वस्तु रखा गया है उसी के अनुसार इसको भी रखा गया है । उस ऐक्ट में जो  
भाषा इस्तमाल की गयी है, उसी का माल इसमें भी किया गया है ।

The Hon'ble the SPEAKER : कौन सेक्शन है ।

The Hon'ble Mr. KRISHNA BALLABH SAHAY :  
सेक्शन ३१ A है ।



The Hon'ble the SPEAKER : सेक्शन ३२-३१ तो कोर्ट के लिये है। जब Landlord कचहरी में जायेगा तो मालूम होगा क्योंकि Landlord तो कानून नहीं जानता है।

The Hon'ble Mr. KRISHNA BALLABH SAHAY : वह आसपास की जमीन की मालगुजारी को देख कर मालगुजारी ठीक करेगा।

The Hon'ble SPEAKER : मालूम होता है आप जमीन्दार नहीं हैं नहीं तो ऐसी बात नहीं कहते।

The Hon'ble Mr. KRISHNA BALLABH SAHAY : जी हाँ, मैं जमींदार नहीं हूँ। लेकिन इसकी कुछ जानकारी मुझे है इसका जवाब देही [onus] जमींदार पर रहेगी कि वह आसपास की जमीनों की मालगुजारी ठीक करे।

उससे दस प्रतिशत ज्यादा भी ले सकता है। अगर किसी जगह जमींदार की तरफ से जुल्म हुआ हो और ज्यादा मालगुजारी तय हुई हो तो वह रैयत की जवाबदेही होगी कि वह उसको कम करवावे।

The onus of proving that the rent is higher will lie on the tenants and not on the landlords.

किसान को मालगुजारी कम कराने के लिये कचहरियों में जाना पड़ेगा। वहाँ उसको यह साबित करना पड़ेगा कि जमीन्दारों की तरफ से जुल्म हुआ है।

The Hon'ble the SPEAKER : He shall be deemed to have committed an offence.

The Hon'ble Mr. KRISHNA BALLABH SAHAY : If the tenant proves that the rent charged is higher than it should have been the Court will reduce the rent accordingly.

तो अच्छा हुआ बच जायेगा। दूसरी बात यह है कि record of rights बहुत सी जगहों में मिलेगा भी नहीं। तीसरी बात यह है कि जमीन में जो तरक्की हुई है वह record of village में मालगुजारी ठीक करने के पहले हुई थी। record of village में मालगुजारी ठीक करने के बाद खेत में तरक्की हुई। अब ऐसे खेत की मालगुजारी जमीन्दार दस रुपया लेता है मगर ६० वर्ष पहले का record of village में ४ रुपया लिखा हुआ है तो जमीन्दार ४ रुपया क्यों लेगा।

The Hon'ble the SPEAKER : क्या Record of rights में यह दर्ज नहीं है ?

The Hon'ble Mr. KRISHNA BALLABH SAHAY : लेकिन वह पुरानी चीज है।

The Hon'ble the SPEAKER: This is also quite indefinite.

The Hon'ble Mr. KRISHNA BALLABH SAHAY: Sir, that is the reason why I am opposing it.

Mr. DEOSARAN SINHA : सदर सात्व दूसरी दिक्कत यह है कि अमेन्डमेन्ट में कहा जाता है कि record of rights में जो लगान है वही रखी है । लेकिन हम लांग ऐसा सोच सकते हैं कि किसी किसी वस्ती में चार शरह लगान हैं तो किस के हिसाब से लगान मुकर्रर किया जायेगा । इसलिये यह अमेन्डमेन्ट ठीक नहीं है । सेलेक्ट कमिटी ने जो रिपोर्ट किया है वही ठीक है और उसी को रखा जाय ।

The Hon'ble The SPEAKER: अभी जो existing clause है वह definite है

Mr. DEOSARAN SINHA : जब बकायत settle होगा तो यह रैयत और मालिक के बीच की बात है । मगर लगान fix हो जाने के बाद रैयत महसूस करता है कि यह ठीक नहीं है तो वह कचहरी में जा सकता है । अदालत अगर समझे कि कानून के मनशा के खिलाफ लगान मुकर्रर हुआ है तो उसको कम करने का अख्तियार होगा ।

The Hon'ble the SPEAKER: Is that definite ?

Mr. DEVA SARAN SINGH: I am supporting it in this way.

The Hon'ble the SPEAKER: It is stated at the end of sub-section (3) that he shall be deemed to have committed an offence under section 75 and shall be liable to the penalty laid down therein for illegal exactions by landlord or his agent.

Mr. DEVA SARAN SINGH: When the tenants prove that they have been charged more than what is provided by law the Court will reduce the rent and the landlord will be prosecuted as well.

मिस्टर ताहिर का जो अमेन्डमेन्ट है उससे कठिनाई होगी । कोर्ट को नई लगान मुकर्रर करने में दिक्कत होगी । कोर्ट को भी सेलेक्ट कमिटी वाला वसूल मानने में दिक्कत का सामाना नहीं करना पड़ेगा । इसलिये सेलेक्ट कमिटी की जो रिपोर्ट है वही ठीक है ।

Mr. MUHAMMAD TAHIR:

میں صرف یہ عرض کرنا چاہتا ہوں کہ بکاشت زمین جو فیلام ہو چکی ہے اور کئی کئی stages سے گزر چکی ہے ۔ اسکی متعلق آپ نے

فرمایا ہے کہ record of rights میں لگان کم ہے چونکہ ہو سکتا ہے کہ اسمیں improvement بعد settlement کے ہو چکا ہو۔ زمین میں لگان کم کیسے کیا جائگا۔ مثلاً دو روپیہ مالگزاری ایک بگہہ کی ہے اور پھر وہ دوسرے کے ہاتھ settle دس روپیہ بگہہ ہو چکی ہے اور وہ زمین کاشت بن گئی ہے اور record of rights میں اسکی مالگزاری fix ہو گئی ہو تو اسکو کم کیسے کیا جائگا۔ ہو سکتا ہے کہ کسی مجبوری سے وہ زمین بک گئی ہو اور کسی رعیت نے لے لیا ہو اور اسمیں کسی قسم کا change یا improvement بھی نہ ہوا ہو اور اسکی مالگزاری آٹھ روپیہ ایک مرتبہ settle ہو چکی ہو تو ضروری نہیں ہے کہ پھر اتنا ہی پر settle کیا جائے۔

The Hon'ble the SPEAKER: The question is:

That for clause (b) of sub-section (2) of the proposed section 21A of the Act, the following clause be substituted, namely:—

“(b) shall not be entitled to change rent at a rate more than what is recorded in the record-of-rights or more than what was stipulated in the previous registered *kabuliat*, if any, in respect of such land.”

The motion was negatived.

Mr. MUHAMMAD TAHIR: Sir, I beg to move:

That in item (i) of clause (e) of sub-section (2) of the proposed section 21A of the Act for the words “ten times the rent payable in respect of such lands under clause (b)”, the words “the amount of rent recorded in respect of such land or the amount of rent previously stipulated under a registered deed” be substituted.

Mr. MUHAMMAD TAHIR:

یہ سلاسی کے متعلق ہے : میں یہ چاہتا ہوں : .....

The Hon'ble the SPEAKER : क्या आप ten times नहीं चाहते हैं ।

Mr. MUHAMMAD TAHIR:

جی ہاں - حضور -

The Hon'ble Mr. KRISHANA BALLABH SAHAY: सदर साहब, मुझे इसका भी विरोध करना पड़ता है । दस गुना की जो बात रखी गई है वह

खास मद्दल और कोर्ट आब वाड्स के असूल पर रखो गई है। इनमें अगर नीलाम जमीन का बन्दोबस्त करते हैं तो मालगुजारी का दस गुना लेते हैं यही असूल वहां भी है। या जो जमीन बकाशत पीछे चलकर हुई है उसको खेरीदने में जितना जमीन्दार देगा वही असूल है। हम समझते हैं कि दोनों असूल दुबस्त हैं और इस में तरमीम करने की जरूरत नहीं है।

**The Hon'ble the SPEAKER:** The question is:

That in item (i) of clause (e) of sub-section (2) of the proposed section 21A of the Act for the words "ten times the rent payable in respect of such lands under clause (b)", the words "the amount of rent recorded in respect of such land or the amount of rent previously stipulated under a registered deed" be substituted.

The motion was negatived.

**The Hon'ble the SPEAKER:** The question is:

That clause 4, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clause 4, was added to the Bill.

**The Hon'ble the SPEAKER:** The question is:

That clause 5, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clause 5, was added to the Bill.

**The Hon'ble the SPEAKER:** There is an amendment in the name of Muhammad Raziuddin.

The amendment was not spot moved

**The Hon'ble the SPEAKER:** The question is:

That clause 6, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clause 6, was added to the Bill.

**The Hon'ble the SPEAKER:** Clause 7 to 12 are non-contentions; so I put them together.

The question is:

That clause 7 to 12, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clauses 7 to 12 were added to the Bill.

Mr. JAGDISH NARAYAN SINHA : I do not want to move the amendment standing in my name.

Mr. JHULAN SINHA : I do not want to move the amendment standing in my name.

Mr. MUHAMMAD TAHIR : Sir, I beg to move :  
That in clause 13 of the Bill, the original sub-  
Sec. (1) of the proposed section 52B of the Act,  
as omitted by the Select Committee, be restored.

اسپر کچھ زیادہ کہنے کی ضرورت نہیں ہے۔ کلار خود ہی بتاتا ہے۔  
یہ کلار جو ہے وہ اس طرح ہے :

"Where landlord has neglected or failed to maintain in a proper state of repairs the works of irrigation which he is bound to maintain under any law, for the time being in force, or under any contract, express or implied, and such neglect or failure has adversely affected the productive powers of the land held by a tenant, the tenant shall be entitled to withhold the payment of rent of such and until such time as the landlord has brought the said works of irrigation in a proper state of repairs".

یہ بہت ہی simple چیز ہے۔ کسی قانون کے ذریعہ سے ایریگیشن کا فرض ہے کہ وہ زمین کے irrigation اور improvement کے متعلق خیال رکھے اور ایسی حالت میں جب اسکی duty ہے کہ وہ خیال رکھے اور اگر وہ خیال نہیں رکھتا ہے تو کوئی وجہ نہیں ہے کہ رعیت پر کسی قسم کی پابندی ہو۔ اگر landlord اسپر عمل کرے تو رعیت کو فائدہ ہوتا ہے۔ اور اگر نہیں کرنے سے اسکا نقصان ہوتا ہے اور پیداوار میں گھٹا ہوتا ہے۔ غلہ نہیں پیدا ہوتا ہے۔ اس سے وہ فائدہ نہیں اُٹھا سکتا ہے۔ چٹنا ہونا چاہئے۔ ایسی حالت میں رعیت کو اختیار ہے کہ جب تک زمین کی حیثیت اچھی نہیں ہو جاتی ہے اسوقت تک وہ مالگزاری کو withheld کر سکتا ہے۔ میں سمجھتا ہوں کہ یہ کسی حالت میں انصاف کے خلاف نہیں ہے۔ میں امید کرتا ہوں کہ ریونیو منسٹر صاحب اسکو اشوق سے مان لینگے۔

The Hon'ble Mr. KRISHNA BALLABH SAHAY : جناب صدر، جواں میں سیکے یہ کہنا ہے کہ میں نے بہت شوق سے اس Provision کو رٹا تھا۔ مگر سلیکٹ کمیٹی میں جب اسکی جانچ پڑتال کی گئی تو سمجھ گیا کہ اسکی

जबरत नहीं है - सेलेक्ट कमिटी को रिपोर्ट के एक हिस्सा को मैं पढ़ देना चाहता हूँ । शायद मेरे दोस्त ने इसे नहीं पढ़ा है, इसलिए मैं इसे पढ़कर सुना देना चाहता हूँ । मैं समझता हूँ जवाब में इतना काफी होगा ।

"We gave this our full consideration and heard all the view points placed before us. We were advised that according to the decided case laws and under section 112A (10 c) of the Act, the tenant already possessed a right to withhold payment of rents under certain circumstances or to apply to the Collector for the partial or entire remission of rent and that sub-section (1) of the proposed new section 52 B did not confer any new right on the tenant. We accordingly omitted the first part of the clause as being unnecessary".

The Hon'ble the SPEAKER : नहीं, क्लोज़ तेरह में कहा गया है कि अभी जो कानून है उसके मुताबिक बहुत सी हालतों में under certain circumstances मालगुजारी नहीं देने का हक है ।

Mr. MUHAMMAD TAHIR :

بہت سی حالتوں میں rent نہیں دینے کا حق الگ چیز ہے اور قانون حق الگ چیز ہے - اسکو جابج کر کے آپ substantial حق دینا چاہتے ہیں - Legal rights کو ہٹا کر میں سمجھتا ہوں کہ substantial right کے اسلئے legal rights زیادہ effective بنسبت میں اسکو press کر دینا کہ اسکو منظور کیا جائے -

The Hon'ble the SPEAKER : The question is :

Mr. JADUVANS SAHAY : May I request you to give us more detail why this clause has been given. The answer given by the Hon'ble Minister is not sufficient. Moreover this is also not controversial. So far as the landlords are concerned, it is their bounden duty to maintain irrigation work and if they fail in their duty, the tenants are bound to ask for remission. May I request the Hon'ble Prime Minister to give a reply ?

The Hon'ble Mr. SRI KRISHNA SINHA : Sir, the very existence of a tenancy law supposes that there is a system which is called the Zamindari system and there is relationship between the landlords and tenants and the whole relationship is based on the fact that one group has

to pay the rent of the land to the other. So long as the system has not been wiped out and Government expect landlords to pay rent, it is also reasonable that the landlords should be assured of payment of rent in time. I know the landlords in a large number of cases are legally bound to make arrangement for irrigation and Government is advised that according to law, as it stands at present, a tenant is entitled to remission of rent from the landlord who has not made arrangement for irrigation. If a landlord has failed in his duty to make arrangement for irrigation and the tenant has suffered there is a court of law to give the benefit of law to the tenant but by making it a part of law there has been a general tenancy on the part of the recalcitrant tenant to take advantage of this section and make latches in the payment of the rent. So the law, as it is, gives full protection to the tenants against a landlord who does not have irrigational arrangements, as expected of him. Therefore it was not proper to frame any *law in vague*.

The Hon'ble the SPEAKER : Under section 108 A, sub-section (1), clause (1) I do not see that a tenant has a right to withhold payment.

The Hon'ble Mr. KRISHNA BALLABH SAHAY : A tenant can.

The Hon'ble the SPEAKER : The question is :

That in clause 13 of the Bill, the original sub-section (1) of the proposed section 52 B of the Act, as omitted by the Select Committee, be restored.

The motion was negatived.

The Hon'ble the SPEAKER : The question is :

That clause 13, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clause 13 was added to the Bill.

Mr. MUHAMMAD RAZIUDDIN : There stands an amendment to clause 13 in my name.

The Hon'ble the SPEAKER : I want to know the serial number of the amendment.

Mr. MUHAMMAD RAZIUDDIN : The amendment has not been numbered.

The Hon'ble the SPEAKER: I see, it is to clause 6 and clause 13. But I called out the name of the hon'ble member and he was absent.

Mr. MUHAMMAD RAZIUDDIN:

ہم تو میم کی list دیکھ رہے تھے حضور -

The Hon'ble the SPEAKER: Clauses are taken in the order in which they find place in the Bill. After clause 4 was passed, clause 6 was taken up. The name of the hon'ble member was called up, I distinctly remember.

Clause 13 has already been put before the House and has been passed.

Mr. MUHAMMAD RAZIUDDIN: I drew the attention of the Hon'ble Speaker as soon as it was put.

The Hon'ble the SPEAKER: It does not matter. This amendment cannot be moved by the hon'ble member because it has been moved by Mr. Tahir.

Mr. MUHAMMAD RAZIUDDIN: My amendment is different from that of Mr. Tahir.

The Hon'ble the SPEAKER: Mr. Tahir's amendment is the same.

At any rate that is over now.

Mr. MUHAMMAD RAZIUDDIN:

میری تو میم یہ ہے کہ proviso جو omit کر دیا گیا ہے اسکو

restore کر دیا جائے -

The Hon'ble the SPEAKER. वही तो मिस्टर ताहिर का है।

Mr. MUHAMMAD RAZIUDDIN:

اُنکا تو دوسرا amendment ہے - اُنکا 52B کے restore کرنے

کیلئے ہے اور میرا ہے 48A کو restore کرنے کے لئے -

The Hon'ble the SPEAKER: The hon'ble member was not present in the House and have passed it over.

The question is:

That, clauses 14 to 18, as reported by the Select Committee do stand part of the Bill.

The motion was adopted.

Clauses 14 to 18, were added to the Bill.



Mr. MUHAMMAD TAHIR : Sir, I beg to move :  
That in clause 19 of the Bill, in sub-section (2)  
of the proposed section 88 A of the Act, the  
following clause (b) be added, namely :—

“(b) Any division of the tenure or holding or distribution of rent payable in respect thereof made by partition among the holders of such tenure or holding, shall be binding on the landlord, if any party to such partition sends to the landlord by registered post a notice of such division or distribution and containing the prescribed particulars.

اس میں جو provision دیا گیا ہے کہ اگر sale اور purchase کے مطابق کچھ distribution of rent ہو، تو اسکو ہر جانا چاہئے۔ لیکن بہت سے tenure ایسے ہیں جنکا partition کے ذریعہ سے distribution of rent ہو گیا ہے۔

The Hon'ble the SPEAKER: पहले से कानून में क्या है ?

Mr. MUHAMMAD TAHIR :

ہم کو یہ کہنا ہے کہ بعض circumstances میں ایک tenure کا partition ہو جائیگا اور rent بھی divide ہو جائیگا تو ایسی حالت میں landlords پر بھی binding ہونا چاہئے.....

The Hon'ble the SPEAKER: Tenure-holder کا کوئی provision ہے ?

Mr. MUHAMMAD TAHIR :

Tenure holder کا کوئی provision نہیں ہے۔ یہ پہلا provision آ رہا ہے۔ Tenure holder کے distribution کے لئے.....

The Hon'ble Mr. KRISHNA BALLABH SAHAY :  
सभापति जी, मेरा खयाल है कि मेरे दोस्त ताहिर साहब का जो संशोधन (Amendment) है वह Redundant है क्योंकि सेक्शन 25 A of the Bihar Tenancy Act और फिर Sub-section two of the proposed 88A of the Bihar Tenancy Act में Partition of holding और tenure के बारे में काफी Provision है। इसलिए मेरा खयाल है कि इस संशोधन (Amendment) का कोई जरूरत नहीं है।

The Hon'ble the SPEAKER : आप बताइये कि Tenure-holder के बारे में कौन सेक्शन है।

**Mr. DEVASARAN SINGH :** इसमें जो सेक्शन 25A है जिसको हमारे माननीय मिनिस्टर ने refer किया है, उसमें partition का case cover करता है। Any division of the tenure or holding or distribution of the rent payable in respect thereof . . . .

**The Hon'ble the SPEAKER :** . . . . made under sub-section (1) में Tenure-holding कहाँ आता है ?

**Mr. DEVA SARAN SINGH :** सेक्शन 25A speaks of partition.

**The Hon'ble the SPEAKER :** सेक्शन 25A को मैं पढ़कर सुनाता हूँ।

**Mr. DEVA SARAN SINGH :** I agree, but it is not there. The amendmens should be there and not here.

**The Hon' e the SPEAKER :** That is another question.

**Mr. MUHAMMAD TAHIR :**

یہ چیز بہت اچھی رہی - میری سمجھ میں ہے کہ definition جو بارے میں دیا گیا ہے - نہیں آیا - میں سمجھتا ہوں کہ یہی proper جگہ ہے - اس چیز کو لانے کے لئے اور اس لئے میں اپنی ترمیم کو press کرتا ہوں -

**The Hon'ble the SPEAKER :** The question is : That in clause 19 of the Bill, in sub-section (2) of the proposed section 88A of the Act, the following clause (b) be added :—

“(b) Any division of the tenure or holding or distribution of rent payable in respect thereof made by partition among the holders of such tenure or holding, shall be binding on the landlord, if any party to such partition sends to the landlord by registered post a notice of such division or distribution and containing the prescribed particulars” and.

(b) that sub-section (2) be renumbered as clause (a) of that sub-section.

The House then divided as follows:

*DIVISON LIST*

AYES—10.

- |                             |                                |
|-----------------------------|--------------------------------|
| 1 Mr. Muhammad Abdul Ghani. | 6 Mr. Ziaur Rahman.            |
| 2 Mr. Sharfuddin Husain.    | 7 Mr. Muhammad Shafiqul Haque. |
| 3 Mr. Badiuzzaman.          | 8 Mr. Muhammad Islamuddin      |
| 4 Mr. Muhammad Farid.       | 9 Mr. Muhammad Raziuddin       |
| 5 Mr. Mobarak Karim.        | 10 Mr. Muhammad Tahir.         |

*DIVISON LIST*

NOES—58.

- |                                      |                                           |
|--------------------------------------|-------------------------------------------|
| 1 Mr. Murli Manohar Prasad.          | 32 Mr. Ramcharan Sinha.                   |
| 2 Mr. Gauri Shankar Dalmia.          | 33 Mr. Sunder Mahto Pasi.                 |
| 3 Mr. Deva Saran Singh.              | 34 The Hon'ble Mr. Sri Krishna Sinha.     |
| 4 Mr. Shyam Nandan Singh.            | 35 The Hon'ble Mr. Ram-charitra Sinha.    |
| 5 Mr. Jagadish Narain Sinha.         | 36 Mr. Sarjoo Prasad Sinha.               |
| 6 Mr. Mahabir Ram.                   | 37 Mr. Rash Bihari Lal.                   |
| 7 Mr. Chetu Ram.                     | 38 Mr. Shivadhari Siagh.                  |
| 8 Mr. Mosaheb Sinha.                 | 39 Thakur Narsingh Prasad Singh.          |
| 9 Mr. Hargobind Misra.               | 40 Mr. Rajendra Misra.                    |
| 10 Mr. Guptanath Singh.              | 41 Mr. Bhagwat Prasad.                    |
| 11 Sardar Harihar Singh.             | 42 Mr. Basudeva Prasad Sinha.             |
| 12 Mr. Deo Narayan Singh.            | 43 Dr Kishori Lal Kundu.                  |
| 13 The Hon'ble Mr. Jaglal Chaudhuri. | 44 The Hon'ble Pandit Binodanand Jha.     |
| 14 Mr. Jagannath Singh.              | 45 Mr. Bariar Hembrom.                    |
| 15 Pandit Girish Tewari.             | 46 Mr. Jairam Murmu.                      |
| 16 Mr. Ram Binod Sinha.              | 47 The Hon'ble Mr. Krishna Ballabh Sahay. |
| 17 Mr. Jhulan Sinha.                 | 48 Mr. Mangar Dhobi.                      |
| 18 Mr. Phulan Prasad Varma.          | 49 Mr. Soma Bhagat.                       |
| 19 Mr. Ram Basawan Ram.              | 50 Mr. Jitu Ram.                          |
| 20 Pandit Prajapati Misra.           | 51 Mr. Jadubans Sahay.                    |
| 21 Mr. Harivans Sahay.               | 52 Mr. Sagar Mahto.                       |
| 22 Mr. Jaynarayan Prasad.            | 53 Mr. Tika Ram Manjhi.                   |
| 23 The Hon'ble Mr. Badri Nath Verma. | 54 Mr. Nakul Chandra Sahis.               |
| 24 Mr. Yamuna Ram.                   | 55 Srimati Bhagwati Kuer.                 |
| 25 Mr. Mahesh Prashad Sinha.         | 56 Srimati Sushama Sen.                   |
| 26 Mr. Shiva Nandan Ram.             | 57 Mr. Hira Lal Saraf.                    |
| 27 Mr. Rameshwar Prasad Sinha.       | 58 Mr. Prabhat Chandra Bose               |
| 28 Mr. Bir Chandra Patel.            |                                           |
| 29 Mr. Ramasis Thakur.               |                                           |
| 30 Pandit Dhanraj Sharma.            |                                           |
| 31 Mr. Radhakant Choudhary.          |                                           |

The motion was negatived.

The Hon'ble the SPEAKER : The question is :

That clause 19, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clause 19 was added to the Bill.

The Hon'ble the SPEAKER : The question is :

That clauses 20 to 26, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clauses 20 to 26 were added to the Bill.

Mr. MUHAMMAD RAZIUDDIN : I beg to move :

That in clause 27 of the Bill, in the proposed section 148 B of the Act *after* the words "judgment-debtor" the words "or his legal representative, as the case may be" be *inserted*. I will take up. This amendment first because that will be convenient. The difficulty arises in this way. Suppose A sues B for recovery or rent. A decree is passed against B and after the passing of the decree B dies and the decree is not put into execution. Then the legal representatives want to apply under this section. But according to this section they cannot apply as much as they are not on the record. So, this amendment should be inserted Sir. I believe that the Hon'ble the Revenue Minister will feel no difficulty in accepting the amendment.

The Hon'ble Mr. KRISHNA BALLABH SAHAY : I accept the amendment.

The Hon'ble the SPEAKER : The question is :

That in clause 27 of the Bill, in the proposed section 148B of the Act *after* the words "judgment-debtors" the words "or his legal representative, as the case may be" be *inserted*.

The motion was adopted.

Mr. MUHAMMAD RAZIUDDIN : Sir, now I beg to move :

That in clause 27 of the Bill, in the proposed section 148B of the Act *for* the first proviso, the following new proviso be *substituted* namely :—

"Provided that the Court shall not grant any instalment to the judgment-debtor or his legal representative, as the case may be, if the latter fails to deposit in Court for payment to the decree-holder all costs of the suit as embodied in the decree and as also the cost of execution of the decree, if the decree is in execution within a period not exceeding fifteen days from the date of the filing of the petition for instalment to the Court".

Sir, before I proceed I would like to know from the Hon'ble the Revenue Minister if this section has been provided for giving relief to the judgment-debtor or the decree holder. If it is done to give relief to the decree holder, then I have nothing to say and I would then not press my amendment. But if it aims to give relief to the judgment-debtor then....

The Hon'ble Mr. KRISHNA BALLABH SAHAY :  
But I shall accept the amendment.

The Hon'ble the SPEAKER : The question is :  
That in clause 27 of the Bill, in the proposed section 148B of the Act for the first proviso, the following new proviso be substituted, namely :—

"Provided that the Court shall not grant any instalment to the judgment-debtor or his legal representative, as the case may be, if the latter fails to deposit in Court for payment to the decree-holders all costs of the suit as embodied in the decree and as also the cost of execution of the decree, if the decree is in execution within a period not exceeding fifteen days from the date of the filing of the petition for instalment to the Court."

The motion was adopted.

The Hon'ble the SPEAKER : The question is :  
That clause 27, as settled in the Assembly, do stand part of the Bill.

The motion was adopted.

Clause 27 was added to the Bill.

The Hon'ble the SPEAKER : The question is :  
That clauses 28 to 33, as reported by the Select Committee do stand part of the Bill.

The motion was adopted.

Clauses 28 to 33, were added to the Bill.

The Hon'ble the SPEAKER : The question is :  
That Clause 1, as reported by the Select Committee, do stand part of the Bill.

The motion was adopted.

Clause 1 was added to the Bill.

The Hon'ble the SPEAKER : The question is :  
That the Preamble be added to the Bill.

The motion was adopted.

The Preamble was added to the Bill.

The Hon'ble the SPEAKER ; The question is :  
That the Title be added to the Bill.

The motion was adopted.

The Title was added to the Bill.

The Hon'ble Mr. KRISHNA BALLABH SAHAY : I beg to move :

That the Bihar Tenancy (Amendment) Bill, 1947, be passed.

The Hon'ble the SPEAKER : The question is :

That the Bihar Tenancy (Amendment) Bill, 1947, be passed.

The motion was adopted.

**THE BIHAR LOCAL SELF-GOVERNMENT AND CESS (AMENDMENT) BILL, 1947. (BILL NO. 31 OF 1947)**

The Hon'ble PANDIT BINODANAND JHA : With your permission I beg to introduce the Bihar Local Self Government and Cess (Amendment) Bill, 1947.

As the Bill has already been published in the Gazette under the rules no separate motion for leave to introduce the Bill is necessary.

The Hon'ble the SPEAKER : The Bill is introduced.

The Hon'ble PANDIT BINODANAND JHA : Sir, I beg to move :

That the Bihar Local Self Government and Cess (Amendment) Bill, 1944 be taken into consideration.